

COLUMBIA COUNTY, WASHINGTON
January 1, 1994 Through December 31, 1994

Schedule Of Findings

1. The County Should Not Contract With A Columbia County Commissioner For Lease Of Office Space

In June 1995, the Columbia County Commissioners voted to approve a lease for office space for Columbia County Services (a Columbia County department, Fund No. 102 - Mental Health). The owner of this property, who happens to be a commissioner, removed himself from the discussion and from voting on the lease in order to avoid a conflict of interest. However, because as a commissioner he has oversight responsibilities such as approval of the budget, approval of such contracts, approval of the hiring of employees and employee contracts, and approval warrants issued to pay expenditures of Columbia County Services, there continues to be a conflict of interest per RCW 42.23.030.

RCW 42.23.030, which prohibits beneficial interest in contracts by municipal officers, states in part:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such officer, in whole or in part . . .

RCW 42.23.050 provides as follows:

Any contract made in violation of the provisions of this act shall be void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality. Any officer violating the provisions of this act shall be liable to the municipality of which he is an officer for a penalty in the amount of three hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon him by law.

In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of this act shall work a forfeiture of his office.

The county believed that the contract in question fell within an exception to the general prohibition. Specifically, the county relied on the remote interest exception of RCW 42.23.040(3), which provides as follows:

A municipal officer shall not be deemed to be interested in a contract, within the meaning of RCW 42.23.030, if he has only a remote interest in the contract . . . As used in this section "remote interest" means:

(3) That of landlord or tenant of a contracting party.

This exception, however, does not apply to the contract in question because the county commissioner's interest is more than merely "that of a landlord . . . of a contracting party."

Rather, by contracting as landlord to the county, the commissioner's interest has become that of the contracting party itself.

This results in a transaction which does not have the appearance of an "arms length" transaction.

We recommend that the Columbia County Prosecuting Attorney review this matter and take the appropriate action to bring this matter into compliance with state law.